

*Via Electronic Filing*

December 16, 2021

Marlene H. Dortch, Esq.  
Secretary  
Federal Communications Commission  
45 L Street NE  
Washington, DC 20554

**Re:     *Written Ex Parte Presentation***

*Protecting Against National Security Threats to the Communications Supply Chain through the Equipment Authorization Program, ET Docket No. 21-232; Protecting Against National Security Threats to the Communications Supply Chain through the Competitive Bidding Program, EA Docket No. 21-233*

Dear Ms. Dortch:

The Consumer Technology Association (“CTA”)<sup>1</sup> files this *ex parte* letter in the above-referenced dockets to address the impact of the recent passage of the Secure Equipment Act of 2021 (“Secure Equipment Act”)<sup>2</sup> on the Federal Communications Commission’s (“FCC” or “Commission”) ongoing efforts to safeguard America’s communications networks from threats posed by untrusted equipment.

As CTA explained in response to the Commission’s *Notice of Proposed Rulemaking* (“NPRM”) in these proceedings,<sup>3</sup> “CTA shares the Commission’s goals of protecting against national security threats to the communications supply chain and promoting the integrity of connected devices,” and supports the Commission taking steps to root out bad actors from our nation’s

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<sup>1</sup> As North America’s largest technology trade association, CTA® is the tech sector. Our members are the world’s leading innovators—from startups to global brands—helping support more than 18 million American jobs. CTA owns and produces CES®—the most influential tech event on the planet.

<sup>2</sup> Secure Equipment Act of 2021, Pub. L. No. 117-55, 135 Stat. 423 (2021).

<sup>3</sup> *Protecting Against National Security Threats to the Communications Supply Chain through the Equipment Authorization Program*, Notice of Proposed Rulemaking and Notice of Inquiry, FCC 21-73, ET Docket No. 21-232 (June 17, 2021) (“NPRM and NOI”).

communications networks.<sup>4</sup> CTA therefore applauds the passage of the Secure Equipment Act, which specifically directs the Commission to adopt rules to prevent entities from obtaining FCC authorization for Covered List equipment.<sup>5</sup>

The actions of Congress and the Biden Administration in passing the Secure Equipment Act demonstrate consensus across the federal government about granting the Commission authority to close the “loophole” whereby equipment on the Covered List can nevertheless obtain FCC equipment authorizations. The Act unequivocally resolves that the Commission has authority to act on its proposal in the NPRM to block future applications for authorization of Covered List equipment,<sup>6</sup> and confirms that the FCC should move forward expeditiously with this proposal.

Importantly, the Secure Equipment Act does not address the issues teed up in the Commission’s *Notice of Inquiry* (“NOI”) in this proceeding, which center around whether to use the Commission’s equipment authorization regime to promote the cybersecurity of devices connecting to U.S. networks.<sup>7</sup> As CTA and numerous other commenters have made clear throughout this proceeding, the FCC equipment authorization process is simply not the right venue for cybersecurity regulation, and any efforts by the Commission to use that process for cybersecurity objectives threatens to interfere with established and ongoing Internet of Things (“IoT”) security activities and proceedings across the federal government and within standards bodies and other stakeholder organizations.<sup>8</sup> Congress’s decision in the Secure Equipment Act to focus entirely on the action proposed in the NPRM, and to decline to address the NOI, suggests that the strong governmental consensus behind the NPRM proposal does not extend to the cybersecurity proposals put forth in the NOI. The Secure Equipment Act therefore does not change the fact that the Commission should not use the equipment authorization regime to address cybersecurity, and should continue to look for opportunities to lend its expertise to cybersecurity policy through other means.<sup>9</sup>

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<sup>4</sup> Reply Comments of CTA, ET Docket No. 21-232, EA Docket No. 21-233, at 2-3 (filed Oct. 18, 2021) (“CTA Reply Comments”); see also FCC, List of Equipment and Services Covered by Section 2 of the Secure Networks Act, <https://www.fcc.gov/supplychain/coveredlist> (Mar. 12, 2021) (“Covered List”).

<sup>5</sup> Secure Equipment Act § 2.

<sup>6</sup> See NPRM and NOI ¶ 40.

<sup>7</sup> *Id.* ¶¶ 98-105.

<sup>8</sup> See CTA Reply Comments at 6-12.

<sup>9</sup> See *id.* at 13-14 (recommending that the FCC contribute to IoT cybersecurity through FCC advisory bodies and participation in the workstreams of federal partners including the National Institute for Standards and Technology and the Federal Trade Commission).

CTA looks forward to continuing to work with the Commission and other federal agencies on these important national security and cybersecurity issues.

Respectfully submitted,

/s/ Mike Bergman  
Mike Bergman  
Vice President, Technology & Standards

/s/ J. David Grossman  
J. David Grossman  
Vice President, Regulatory Affairs

/s/ Rachel Nemeth  
Rachel S. Nemeth  
Senior Director, Regulatory Affairs